

## **WISCONSIN DEPARTMENT OF WORKFORCE DEVELOPMENT**

### **2015-2017 MOA**

#### **ELEMENT 8 - NARRATIVE**

### **COMPLAINT PROCESSING PROCEDURES**

#### **Complaints Filed by State Staff:**

Pursuant to 29 C.F.R. Part §37.70 - § 37.114, complaints alleging discrimination on the basis protected under Section 188 of Title I of the Workforce Investment Act (WIA) may file a complaint with the Department of Labor (DOL) Director of the Civil Rights Center in Washington D.C. (See Equal Opportunity is Law Poster DET-12400-P (R 06/2013) in Tab 3 Element 2). Complainants wishing to file locally must forward the complaint to Department of Workforce Development (DWD), Division of Employment and Training (DET) Equal Opportunity (EO) Officer for investigation and resolution. Complainants filing at the State level with EO Officer must be resolved within 90 days and a final response provided in WIA Policy Manual Chapter 9. Pages 181 Complaint/Grievance and Appeals Procedures A. – 3. See Exhibit 8-A, the WIA Policy Manual is published at: [http://dwd.wisconsin.gov/dwd/publications/dws/pdf/detw\\_17244\\_p.pdf](http://dwd.wisconsin.gov/dwd/publications/dws/pdf/detw_17244_p.pdf)

Applicants, participants and other customer wishing to file a program or training related complaints directly with local Grantees and/or Sub-grantees must follow the Complaint Grievances and Appeals policies and procedures outline in the DET WIA Policy Manual Chapter 9. Page 178 – 186. The Policy Manual is published in DWD and DET internal and external web site. See Exhibit 8-A, Chapter 9 Page 178 – 186. The Policy Manual is accessible at: [http://dwd.wisconsin.gov/dwd/publications/dws/pdf/detw\\_17244\\_p.pdf](http://dwd.wisconsin.gov/dwd/publications/dws/pdf/detw_17244_p.pdf).

Internal grievances and complaints filed by staff are addressed through the internal complaint policies and procedures managed by the DET HR/AA/EOO and DWD AA/EOO Officer. See Exhibit 8-B, Exhibit 8-C and Exhibit 8-D, how to file a discrimination complaint and complaint form. The policies and procedures are accessible through the internal Work-Web for employee to review and utilize at <http://dwdworkweb/dwd/aaeeo/discrimination.htm>.

The Equal Rights Division (ERD) of DWD and the United States Equal Employment Opportunities Commission Complaint procedures are also available should employees who may wish to use outside complaint procedures. The ERD processes State employee discrimination complaints under Wisconsin's Fair Employment Law §111.3 – 111.395 Wisconsin Statutes.

#### **E.O Officer's Role:**

DET is responsible for processing all WIA discrimination complaints pursuant 29 C.F.R. Part §37.71 are described in the WIA Policy Manual, see Exhibit 8 –A Chapter 9 A-3 page 181 of the Complaint Grievance and Appeal. Chapter 9 pages 178 – 186 are accessible at: [http://dwd.wisconsin.gov/dwd/publications/dws/pdf/detw\\_17244\\_p.pdf](http://dwd.wisconsin.gov/dwd/publications/dws/pdf/detw_17244_p.pdf)

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Local E.O Officers and Job Center Complaint Coordinators have been instructed on the referral of joint jurisdictional complaints under 29 CFR 37.84. Recipients also have the option of using the DET complaint form or developing their own form for complaint processing. WIA funded recipients are provide access to instructions and forms through the DET Employment and Training Civil Rights Compliance web links. The complaint forms are available in English as well as Spanish and Hmong. See Exhibits 8-E through Exhibit 8-I. Accessed to this information and complaint forms through DET internet site go to: [http://dwd.wisconsin.gov/dwd/forms/dws/dets\\_7627.htm](http://dwd.wisconsin.gov/dwd/forms/dws/dets_7627.htm)

Discrimination complaints records are retained for a period of three years from the date of resolution of the complaint or until the resolution of any complaints or outstanding litigation connected with the complainant's participation, if 3 consecutive years have already passed.

Where a fact-finding/investigation is required, the E.O Officer will take lead responsibility for conducting such a review consistent with the basic 90-day deadline for resolving discrimination complaints. Subsequently, the E.O Officer will recommend a final decision to the Division Administrator. This decision serves as a Written Notice of Final Action and includes an explanation of the reasons underlying the decision, a description of the resolution reached by the parties and notice that the complainant has the right to file a complaint with CRC within 30 days of the Notice of Final Action if he or she is dissatisfied with DET's final action on the complaint.

#### **Local Agency Procedures:**

Each local WDA was given the responsibility for developing complaint procedures based on the requirements of Section 188 of WIA, Title I and 29 CFR 37.70. DET entered into an agreement with the Department's ERD to implement an Alternative Dispute Resolution (ADR) process which can be used by local WDAs. The current ADR Memorandum of Understanding with the Equal Rights Division (ERD) continues to be in effect and is provided in Exhibit 8-J. This agreement will be updated between DET and ERD during program year 2015.

Local Workforce Development Boards must develop procedures consistent with DET Procedures for Complaint Processing.

#### **Job Center Complaint Coordinator System:**

Complaints other than WIA discrimination or a Job Service complaint may arise in the context of a Job Center. Due to the variety of partners and services provided through the Job Center network, Wisconsin implemented a Job Center Complaint Coordinator System several years ago. DET required each Job Center to designate a Complaint

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Coordinator and a Backup Coordinator. Coordinators were trained by a multidisciplinary team of trainers from the central office, including representation from Job Service and Vocational Rehabilitation. Not all employment and training services are delivered through Job Centers. UI provided trainers as well. Additional information is included from the DET Bureau of Apprenticeship Standards, the Wisconsin Technical College System and ERD. A Complaint Coordinator Resource Manual was provided to each Job Center Complaint Coordinator and Backup Coordinator which included the complaint procedures for program and discrimination complaints. We recently solicited updated complaint coordinator information by reissuing an Administrator's Memo 14-04. Administrative Memo 14-04 is included as Exhibit 8-K. DET will update the Complaint Coordinator's Listing once WBD's have responded to the memo. The E.O Officer has also developed posters for use by program operators to remind people of their rights. The DWD Job Center Complaint poster was recently revised and transmitted as part of Administrative Memo 14-04 as an attachment and is included as Exhibit 8-L.

DOL Civil Rights Center (CRC) Directive 2009-01 issued July 10, 2009 is the last directive received by DWD and DET regarding the submission of discrimination complaint log information. No information on submitting such information has been received since that time.

#### **Unemployment Insurance Complaints:**

There is a standard procedure for UI Complaints or Appeals. For contested determinations that claimants file, UI uses Administrative Law Judges to hear the cases. Hearings are usually done in person at one of the four office locations previously identified or by telephone. Additional part-time hearing locations are also available in some areas of the state. The results of these administrative hearings are appealable to the Labor and Industry Review Commission. Further remedies through the Circuit, Appellate and Wisconsin State Courts are available after administrative remedies are exhausted.

#### **Job Service Complaint System**

According to 20 CFR Part 658, each State agency shall establish and maintain a Job Service complaint system. The JS Complaint system handles complaints to resolution as follows: (i) Complaints against an employer about the specific job to which the applicant was referred by the JS involving violations of the terms and conditions of the job order or employment-related law (employer-related complaint) and (ii) complaints about Job Service actions or omissions under JS regulations (agency-related complaints). Complaints by MSFWs receive follow up by the State Monitor Advocate to ensure prompt resolution. Complaints alleging unlawful discrimination are referred to the DET E.O Officer.

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**Additional Resources:**

In addition to the resources allocated for the State WIA, Wagner-Peyser & UI EO Officer position, the DWD General Counsel's Office (Legal Counsel for the Department) contributes towards the efforts of equal opportunity. The DWD General Counsel serves as the Independent Review Officer in appeals from cases where the complainant is dissatisfied with the Division Administrator's decision on a contested matter. The State Monitor Advocate, whose position is located in the Bureau of Job Service (BJS), collaborates with the WIA, Wagner-Peyser & UI EO Officer on discrimination complaint investigations, training, policy development and providing technical assistance to external customers. An organizational chart of BJS is provided in Exhibit 8D.

**Civil Rights Center (CRC):**

The non-breaching party may file a complaint with the Director of the USDOL Civil Rights Center within thirty (30) days of the breach if the agreement is not honored. The Director of the USDOL Civil Rights Center must evaluate the circumstances to determine whether the agreement has been breached. The complainant may then file a complaint with USDOL Civil Rights Center based upon his or her original allegations and the Director of the USDOL Civil Rights Center will waive the time deadline for filing.